

REMARKS

Claims 1-14 are pending. Claims 8-14 have amended to correct their claim numbering. No new matter has been added by these amendments.

Claim Objections:

Applicants have noted the erroneous claim numbering, and have submitted an amendment to correct it. Withdrawal of the objection to claim 8 is requested.

Rejections under 35 USC § 102(b):

Claims 1-9 are rejected under 35 USC § 102(b) as anticipated by US Patent No. 5,054,501 (“Chuttani “). Applicants traverse this rejection.

Applicants note that independent claims 1 and 7, and thus the claims that depend from them, require a guide element that is configured to fit through a tunneler, and to releasably engage (cl. 1) or to releasibly couple (cl. 7) to a catheter.

Chuttani fails to disclose these limitations. Chuttani is directed to a guide wire for accessing gall bladders. There is no mention of a tunneler in Chuttani, and no mention of a catheter of any sort being engaged or couple to a catheter in a releasable manner.

If the cited reference fails to disclose all the recited elements of a claim, then the Office has failed to make out a prima facie case of anticipation. Accordingly, Applicants request withdrawal of the rejection of claims 1-9 as being anticipated by Chuttani.

Claims 10-12 and 14 are rejected under 35 USC § 102(b) as anticipated by US Patent No. 5,306,240 (“Berry “). Applicants traverse this rejection.

Applicants note that independent claims 10, 12 and 14, and thus the claims that depend from them, require a guide element that is passed through a tunneler, and is attached to a catheter.

Berry fails to disclose these limitations. Berry is directed to a tunneler for use in placing subcutaneous arterial or venous grafts. There is no mention of a guide element passing through the tunneler of Berry, and no mention of any guide element being attached to a catheter.

If the cited reference fails to disclose all the recited elements of a claim, then the Office has failed to make out a prima facie case of anticipation. Accordingly, Applicants request withdrawal of the rejection of claims 10-12 and 14 as being anticipated by Berry.

Rejections under 35 USC § 103(a):

Claim 13 is rejected under 35 USC § 103(a) as obvious over Berry in view of US Patent No. 4,453,928 ("Steiger "). Applicants traverse this rejection.

The deficiencies of Berry have been noted above. Steiger does not remedy these deficiencies as it fails to disclose a guide element that can be attached to the catheter that is disclosed in Steiger (see, e.g. column 3, lines 49-63, wherein the catheter is introduced into a tube without the use of a guide element being disclosed).

If the cited references, taken together, fail to teach or disclose all of the recited elements of a claim, then the Office has failed to make out a prima facie case of obviousness. Accordingly, Applicants request withdrawal of the rejection of claim 13 as being obvious over Berry in view of Steiger.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding rejections. Early notice to that effect is earnestly solicited.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact Applicants' Attorney at (408) 777-4914.

Respectfully submitted,

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